IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. CIVIL WRIT PETITION NO. 5078/1998

M/S JAI INDUSTRIES AND OIL MILL & ORS.
Vs.
THE RAJASTHAN STATE ELECTRICITY BOARD & ORS.

DATE: 12.09.2007

HON'BLE MR. JUSTICE K.S. RATHORE

Mr. Pankaj Jain for
Mr. Manu Bhargava for the petitioners.
Mr. Satish Khandelwal for
Mr. J.K. Singhi for the respondents.

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This is the second round of litigation. Earlier also the petitioners had filed a writ petition which was registered as S.B.C.W. Petition No. 5658/1997 and it is not disputed that the aforesaid writ petition was dismissed by this Court vide order dated 01.10.97 and the review petition was also filed against the order of this Court and the same was also dismissed as withdrawn.

In this writ petition the petitioners have challenged the order impugned dated 02.09.98 (Annexure-10) passed by the respondent No.5 Chief Engineer (O & M-A/Z, RSEB, Alwar on the ground that this order is not a speaking order and the reasons have not been given in

it as to how the Appellate Authority arrived at a conclusion that the amount which was assessed as per the provisional assessment to the tune of Rs. 5,75,202.60 has been reduced to Rs. 2,41,999.80 plus electricity duty.

Further the order impugned has been challenged on the ground that as per the evidence produced on record, the alleged period of theft be calculated only from the date of last inspection when the seals were found intact on 20.03.95 upto 30.03.95 when the seals were allegedly found to be tempered with i.e. for the period commencing 21.03.95 with concession for holidays.

The petitioners also submits that the rebate on the basis of actual units for which payment has been made i.e. 37,282/- be granted and in making assessment the number of days per month be restricted to 25 days as against 30 days calculated by the respondent No.5.

I have heard rival submissions of the respective parties and have also gone through the order impugned dated 02.09.98 passed by the Appellate Authority.

It is alleged that the impugned order is not a speaking order, but I am not impressed with the aforesaid submissions. The Appellate Authority has

considered each and every aspect and the appeal of the petitioner was heard in the presence of Superintending Engineer (O&M), RSEB, Bharatpur and Executive Engineer (O&M), RSEB, Dholpur in which the case of the petitioner was represented by Shri Dau Dayal and after hearing arguments/facts narrated and as per the record of the Board , the Appellate Authority has arrived at a decision that the provisional assessment made by the respondents for an amount of Rs. 5,75,202.60, he thought it proper to reduce the same to Rs. 2,41,999.80 plus electricity duty. This reduction in the final assessment is made only after applying the mind and considering the submissions made on behalf of the petitioner as well as the department.

Further with regard to the submissions that the period of theft be only calculated from the date of last inspection when the seals were found intact and only 25 days as against 30 days in a month required to be calculated, since the Appellate Authority as stated herein above, has considered each and every aspect and has given findings of facts on the basis of the record, therefore, this Court do not want to interfere with the fact findings given by the Appellate Authority. Thus, the impugned order dated 02.09.98 requires no interference by this Court.

Consequently, the writ petition fails and the same is hereby dismissed.

The interim order dated 11.11.98 granted by this Court stands rejected. The stay application also stands rejected.

(K.S. RATHORE),J.

/KKC/